

R E C E I V E D

OCT 04 2017

2016R00203/AK/BAW/ms

AT 8:30 \_\_\_\_\_ M  
WILLIAM T. WALSH  
CLERK

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA	:	Hon. Anne E. Thompson
v.	:	Crim. No. 16-107 (AET)
JAY FUNG,	:	CONSENT JUDGMENT AND ORDER OF FORFEITURE
Defendant.	:	(MONEY JUDGMENT)

WHEREAS, on or about March 9, 2016, defendant Jay Fung pleaded guilty pursuant to a plea agreement with the United States to a one-count Information (the "Information"), which charged him with conspiring to commit securities fraud, in violation of 15 U.S.C. §§ 78j(b) and 78ff;

WHEREAS, pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461, a person convicted of a securities fraud conspiracy offense in violation of 15 U.S.C. §§ 78j(b) and 78ff, as alleged in the Information, shall forfeit to the United States all property, real and personal, that constitutes or is derived from proceeds traceable to the commission of such offense;

WHEREAS, the property subject to forfeiture by defendant Jay Fung includes a sum of money equal to \$345,245, representing the proceeds of the securities fraud conspiracy offense charged in the Information;

WHEREAS, in the plea agreement, the defendant consented to the imposition of a criminal forfeiture money judgment in the amount of \$345,245;

WHEREAS, Rule 32.2(c)(1) of the Federal Rules of Criminal Procedure provides that no ancillary proceeding is required to the extent that the forfeiture consists of a money judgment;

WHEREAS, Rule 32.2(b)(4)(A) of the Federal Rules of Criminal Procedure provides that a preliminary order of forfeiture, including a preliminary order of forfeiture consisting of a money judgment, may become final at any time before sentencing if the defendant consents;

WHEREAS, defendant Jay Fung:

(1) Consents to the forfeiture to the United States of \$345,245 as a sum of money representing the proceeds of the offense charged in the Information, to which the defendant has pleaded guilty (the "Money Judgment");

(2) Consents to the imposition of a money judgment in the amount of \$345,245 pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461, and agrees that this Order is final at the time of its entry by the Court, pursuant to Rule 32.2(b)(4)(A) of the Federal Rules of Criminal Procedure;

(3) Agrees to consent promptly upon request to the entry of any orders deemed necessary by the government or the Court to complete the forfeiture and disposition of property forfeited to satisfy the Money Judgment;

(4) Agrees promptly to pay the Money Judgment in full;

(5) Waives the requirements of Federal Rules of Criminal Procedure 32.2 and 43(a) regarding notice of forfeiture in the charging instrument, announcement of the forfeiture in the defendant's presence at sentencing, and incorporation of the forfeiture in the Judgment of Conviction;

(6) Acknowledges that he understands that forfeiture of property will be part of the sentence imposed upon him in this case and waives any failure by the Court to advise him of this, pursuant to Federal Rule of Criminal Procedure 11(b)(1)(J), during the plea hearing;

(7) Waives, and agrees to hold the United States and its agents and employees harmless from, any and all claims whatsoever in connection with the seizure, forfeiture, and disposal of the property described above; and

(8) Agrees that the forfeiture does not constitute an excessive fine or violate the Eighth Amendment.

WHEREAS, good and sufficient cause has been shown,

It is hereby ORDERED, ADJUDGED, AND DECREED:

THAT, as a result of the offense charged in the Information, to which the defendant Jay Fung has pleaded guilty, the defendant shall forfeit to the United States the sum of \$345,245. A money judgment in the amount of \$345,245 (the "Money Judgment") is hereby entered against the defendant pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461 and Federal Rule of Criminal Procedure 32.2(b).

IT IS FURTHER ORDERED that, the defendant having given his consent pursuant to Federal Rule of Criminal Procedure Rule 32.2(b)(4)(A), upon entry of this Consent Judgment and Order of Forfeiture, this Order is final as to the defendant Jay Fung, shall be deemed part of the sentence of the defendant, and shall be included in the judgment of conviction therewith.

IT IS FURTHER ORDERED that all payments on the Money Judgment shall be made by postal money order, bank or certified check, made payable, in this instance to the United States Marshals Service, and delivered by mail to the United States Attorney's Office, District of New Jersey, Attn: Asset Forfeiture and Money Laundering Unit, 970 Broad Street, 7th Floor, Newark, New Jersey 07102, and shall indicate the defendant's name and case number on the face of the check.

IT IS FURTHER ORDERED that, pursuant to 21 U.S.C. § 853, as incorporated by 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461, the United States Marshals Service is authorized to deposit all payments on the Money Judgment in the Assets Forfeiture Fund, and the United States shall have clear title to such forfeited property.

IT IS FURTHER ORDERED that, pursuant to Rule 32.2(b)(3) of the Federal Rules of Criminal Procedure, upon entry of this Order, the United States Attorney's Office is authorized to conduct any discovery needed to identify, locate, or dispose of property to satisfy the Money Judgment, including depositions, interrogatories, requests for production of documents and the issuance of subpoenas.

IT IS FURTHER ORDERED that the Clerk of the Court is directed to enter a money judgment against the defendant in favor of the United States in the amount of \$345,245.

IT IS FURTHER ORDERED that this Court shall retain jurisdiction to enforce this Order, and to amend it as necessary, pursuant to Rule 32.2(e) of the Federal Rules of Criminal Procedure.

ORDERED this 4<sup>th</sup> day of October, 2017.

  
\_\_\_\_\_  
HONORABLE ANNE E. THOMPSON  
United States District Judge

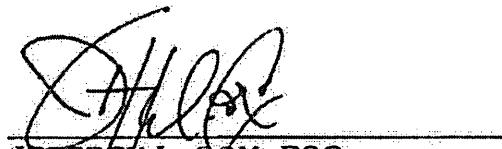
The undersigned hereby consent to  
the entry and form of this order:

WILLIAM E. FITZPATRICK  
Acting United States Attorney



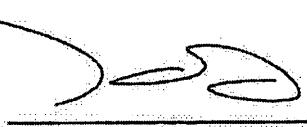
Dated: 10/3/17

By: ANDREW D. KOGAN  
BARBARA A. WARD  
Assistant United States Attorneys



Dated: 9-25-17

JEFFREY L. COX, ESQ.  
Attorney for Defendant Jay Fung



Dated: 09/25/17

JAY FUNG, Defendant